

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT C.
INDIANAPOLIS IN
08 SEP 25 AM 11
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

HEARTLAND EMPLOYMENT
SERVICES, LLC, d/b/a MANORCARE
OF INDY SOUTH

Defendant.

CIVIL ACTION NO.

1 : 08 -cv-1292-WTL-TAB

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and to provide appropriate relief to Thelma M. Wrencher and a class of similarly situated individuals, who were adversely affected by such practices. As alleged with greater particularity in paragraph 7 below, the Commission alleges that Defendant discriminated against Thelma M. Wrencher and a class of similarly situated individuals with respect to the terms, conditions, and privileges of their employment. Defendant also discharged Thelma M. Wrencher because of her race, black.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706 (f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States Court for the Southern District of Indiana, Indianapolis Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706 (f)(1) and (3) and of Title VII, 42 U.S.C. § 2000e-5 (f) (1) and (3).

4. At all relevant times, Defendant, Heartland Employment Services, LLC, d/b/a ManorCare of Indy South (the "Employer"), has continuously been a limited liability company, doing business in the State of Indiana and the City of Indianapolis, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Thelma M. Wrencher filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January 2007, Defendant Employer has engaged in unlawful employment practices at its Indianapolis, Indiana facility, in violation of Section 703(a) of Title VII, 42 U.S.C. §§ 2000e-2(a). The unlawful practices include:

- a) discriminating against Thelma M. Wrencher and a class of similarly situated individuals with respect to the terms, conditions, and privileges of their employment, because of their race, black, in that Defendant Employer makes job assignments based upon race; and
- b) discharging Thelma M. Wrencher because of her race, black.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Thelma M. Wrencher and a class of similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees, because of their race.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Thelma M. Wrencher.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant Employer, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of race.
- B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for blacks and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Thelma M. Wrencher by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful place reinstatement of Thelma M. Wrencher.

D. Order Defendant Employer to make whole Thelma M. Wrencher by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to out of pocket expenses, job search expenses, and medical expenses, plus prejudgment interest, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Thelma M. Wrencher and a class of similarly situated individuals by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including but not limited to physical and emotional pain and suffering, mental anguish, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employer to pay Thelma M. Wrencher punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

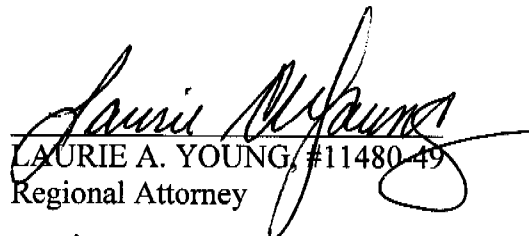
G. Grant such further relief as the Court deems necessary and proper in the public interest.

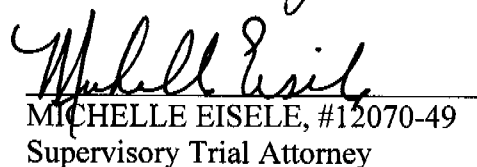
H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully Submitted,


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